

**UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**JOSE ESCRIBANO, MIRTHA
MENDOZA, BRYCE MILLER
ROBERT MILLS, MICHAEL STRAWN
And JAMES WILLIAMSON
Plaintiffs,**

v.

**TRAVIS COUNTY, TEXAS
Defendant.**

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Civil No. 1:15-cv-00331

PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF THE COURT:

NOW COME Jose Escribano, Mirtha Mendoza, Bryce Miller, Robert Mills, Michael Strawn, and James Williamson hereinafter called Plaintiffs, complaining of Travis County, Texas, hereinafter called Defendant, and for cause of action would respectfully show the Court and jury as follows.

I. NATURE OF ACTION

1. Plaintiffs bring this action to recover unpaid compensation and other appropriate relief from the Defendant pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. §§201 *et seq.* Plaintiffs contend that Defendant improperly failed to compensate the Plaintiffs at one and one-half times their regular rate for hours over forty worked in each work week, thereby depriving Plaintiffs of compensation to which they were entitled under 29 U.S.C. §207. Plaintiffs seek declaratory and injunctive relief, back pay for underpayment of wages, an equal amount as liquidated damages, and attorney fees and costs.

II. JURISDICTION AND VENUE

2. Jurisdiction over Plaintiffs' claims is conferred on this Court by 28 U.S.C. §1331 and by 29 U.S.C. §216.

3. Venue is proper in this Court under 28 U.S.C. §1391(b) because all or a substantial part of the events or omissions giving rise to Plaintiffs' claim occurred in this judicial district.

III. PARTIES

4. Plaintiffs are individual citizens of the State of Texas who are or were at relevant times employed by Defendant Travis County, Texas. Attached hereto are Consents to Sue signed by Bryce Miller, James Williamson, Jose Escribano, Michael Strawn, and Robert Mills and incorporated herein by reference.

5. Defendant Travis County, Texas ("Defendant" or the "County") is a legally constituted governmental entity under Texas law. Travis County, Texas may be served with process by serving its County Judge, Sarah Eckhardt, at 700 Lavaca, Suite 2.300 Austin, TX 78701.

IV. FACTUAL ALLEGATIONS

6. Defendant is subject to the requirements of the Fair Labor Standards Act, 29 U.S.C. §201 et seq.

7. Under the FLSA, a separate cause of action accrues at each regular payday immediately following the work period during which the services were rendered for which the wage or overtime compensation is claimed. *Halferty v. Pulse Drug Co.*, 821 F.2d 261, 271 (5th Cir. 1987). Thus, the "relevant period" for purposes of this suit is the period commencing two years prior to the date this claim was filed (or three (3) years prior to the date each Plaintiff's

claim was filed if the court finds a willful violation to have occurred), and continuing thereafter.

8. During the relevant period, Defendant was and is an “employer” as that term is defined in 29 U.S.C. §203(d).

9. During the relevant period, each of the Plaintiffs was and/or is an “employee” of the Defendant as that term is defined in 29 U.S.C. §203(e), working for the Travis County Sherriff’s Department (the “Sherriff”s Department”).

10. While employed by the Defendant during the relevant period, each of the Plaintiffs regularly worked hours in excess of 40 per week.

11. Throughout the relevant period, the Defendant refused to pay, and continues to refuse to pay, each of the Plaintiffs at one and one-half times their regular rate of pay for hours worked in excess of 40 each week.

12. During the relevant period, neither Plaintiffs nor Defendant were exempt from the requirements of the FLSA.

V. CAUSE OF ACTION

13. Paragraphs 1–12 are incorporated herein.

14. The Defendant’s failure to pay Plaintiffs at one and one-half their regular rate of pay for hours worked in excess of 40 each week violates the Defendant’s obligations, and the Plaintiffs’ rights, to overtime pay required by 29 U.S.C. §207.

15. The Defendant’s failure to pay Plaintiffs at one and one-half their regular rate of pay for hours worked in excess of 40 each week was willful, thus entitling the Plaintiffs to the three-year statute of limitations under 29 U.S.C. §255(a).

VI. REQUEST FOR JURY TRIAL

16. Pursuant to FRCP 38, Plaintiffs hereby request a jury trial in the above styled

and numbered cause.

VII. PRAYER FOR RELIEF

Wherefore, premises considered, Plaintiffs respectfully request that Defendant be cited to appear and answer herein; and that upon final hearing, the Court grant Plaintiffs relief as follows.

- A. Declare that Defendant has violated the Fair Labor Standards Act, specifically 29 U.S.C. §207 by failing to pay Plaintiffs one and one-half times their regular rate of pay for all hours worked over forty in a work week;
- B. Declare that Defendant's failure to pay overtime wages to Plaintiffs was willful;
- C. Permanently enjoin Defendant from failing and refusing to pay Plaintiffs one and one-half times their regular rate for all hours in excess of 40 worked in each work week;
- D. Order Defendant to pay each Plaintiff back pay for the relevant period equal to the difference between what the Plaintiff would have received for overtime hours worked had the Plaintiff been paid one and one-half times his or her "regular rate" and what the Plaintiff actually was paid for those hours, for all pay periods occurring within the applicable limitations period;
- E. Order Defendant to pay each Plaintiff liquidated damages in an amount equal to the back pay awarded to that Plaintiff;
- F. Order Defendant to pay Plaintiffs' reasonable attorney fees and costs pursuant to 29 U.S.C. §216(b);
- G. Order Defendants to pay pre-judgment interest on all amounts for which pre-judgment interest is legally allowable, at the highest lawful rate;
- H. Order Defendants to pay post-judgment interest at the highest lawful rate for

all amounts, including attorney fees, awarded against Defendants; and

I. Order all further relief, whether legal, equitable or injunctive, as may be necessitated to effectuate full relief to the Plaintiffs.

Respectfully submitted,

/s/ Bo Blackburn

Bo Blackburn

State Bar No. 24006853

Jacob Scheick

State Bar No. 24060563

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ATTORNEYS FOR PLAINTIFFS

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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Civil No. 1:15-cv-00331

CONSENT TO BE PARTY PLAINTIFF

Pursuant to 29 USC § 216, I James Williamson, hereby give consent to become a party plaintiff in the above styled and numbered cause.


JAMES WILLIAMSON

**UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

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Civil No. 1:15-cv-00331

CONSENT TO BE PARTY PLAINTIFF

Pursuant to 29 USC § 216, I Bryce Miller, hereby give consent to become a party plaintiff in the above styled and numbered cause.



BRYCE MILLER

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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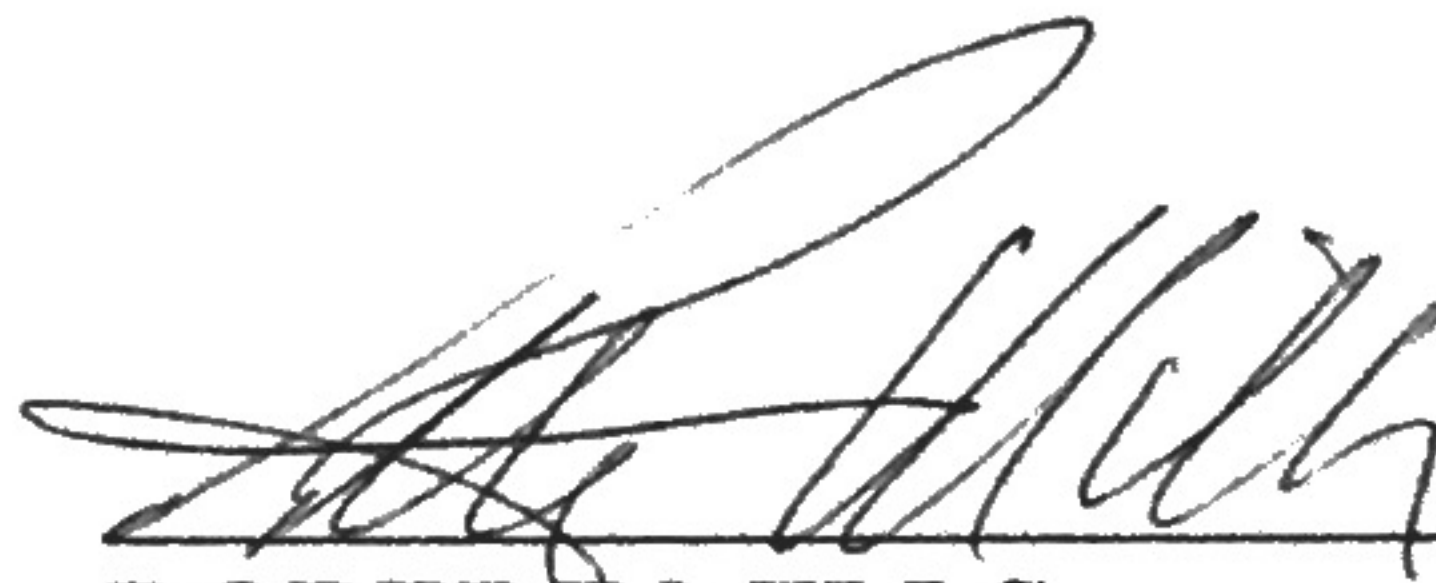
TRAVIS COUNTY, TEXAS
Defendant.

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Civil No. 1:15-cv-00331

CONSENT TO BE PARTY PLAINTIFF

Pursuant to 29 USC § 216, I Robert Mills, hereby give consent to become a party plaintiff
in the above styled and numbered cause.


ROBERT MILLS

**UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

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Plaintiffs,**

V.

TRAVIS COUNTY, TEXAS
Defendant.

§ 87(2)(b)

1:15-cv-00331
Civil No. _____

CONSENT TO BE PARTY PLAINTIFF

Pursuant to 29 USC § 216, I Michael Strawn, hereby give consent to become a party plaintiff in the above styled and numbered cause.

Michael Strawn
MICHAEL STRAWN

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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Civil No. 1:15-cv-00331

CONSENT TO BE PARTY PLAINTIFF

Pursuant to 29 USCS § 216, I Jose Escribano, hereby give consent to become a party plaintiff in the above styled and numbered cause.



JOSE ESCRIBANO